IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICITON

INCOME TAX APPEAL NO.1045 OF 2004

The Director of Income Tax
(International Taxation) .. Appellant.

Versus

M/s.Zim Israel Navigation Co. Ltd. .. Respondent.

Mr.Parag Vyas with Mr.P.S. Sahadevan for the appellant.

CORAM : F.I. REBELLO &
J.P. DEVADHAR, JJ.

DATED : 30TH OCTOBER, 2007.

P.C. :

1. The Tribunal while disposing of the appeal relied on C.B.D.T. circular No.732 dated 20-12-1995 and has quoted paras 4 and 5 of said circular.

2. It appears and as pointed out on behalf of the revenue that in fact relevant circular is circular No.9/01 dated 9-7-2001. After quoting from the circular, the Tribunal has proceeded to observe that what is contained in the circular may not be the correct legal position. However, thereafter proceeding on the basis that once the Board issues a circular, it is the bounden duty of the field officers to strictly adhere to it.

3. In the light of the above, the question

would arise, whether the question of law as framed arises in this appeal. Once there be a circular by a competent authority and entrusted with power to issue such circular, it would not be open to the revenue to contend that the circular is not binding upon them. The law on this point is very clear that the circular would be binding till such time it is either withdrawn or substituted or declared null and void by a competent Court.

4. Considering the above and as the circular is still in force, the question of law as framed would not arise and consequently the appeal stands disposed of.

(F.I. REBELLO, J.)

(J.P. DEVADHAR, J.)